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THE JEWISH VETERAN
September-October 1979

Nazi War Criminals In The United States

by Charles R. Allen, Jr.

FACT: The three largest, most accessible, most secure shelters for Nazi mass murderers and collaborators are—in order of numerical sanctuary: West Germany, Argentina and the United States of America.

If, as Arthur Morse's book instructs us, the U.S. Government did nothing *While Six Million Died*, then this shameful continuum was extended for nearly three decades when the U.S. Government did nothing about the victims' killers who made their way to our democracy.

Other than a handful of valiants—among them from the start, to its everlasting honor, the Jewish War Veterans—the record will show that very few objected to such a genocidal presence on America's shores.

But then in the mid-1970s, a rapid succession of events brought the issue to a new and historical level: a New York housewife was extradited to West Germany to stand trial for crimes committed by her while a concentration camp guard supervisor; two courageous officials of the Immigration and Naturalization Service stormed out of the INS, charging that Agency with having covered up Nazi war crimes cases for years; in the U.S. Congress, two members of the powerful House Judiciary Committee (which had just played a nationally prominent role in exposing the Watergate scandal) began to take initiatives never before realized in this matter.

Suddenly, the atmosphere changed. Nazi war criminals and their accomplices living in the United States were on the front page,

on radio and flickering across a nation's TV screens.

Special credit must be accorded a young Congresswoman, Elizabeth Holtzman (D-N.Y.), who tirelessly led the struggle which has, finally, placed the issue not only on the Congressional agenda but in the public ken.

She has provided the singular driving force—along with former Rep. Joshua Eilberg (D-Pa.)—to launch a series of artfully directed Congressional Hearings. Probing and educating a national conscience, she authored a new law which closed the loopholes through which many of these criminals have slipped into the country.

She had the courage to provide Congressional forums for those journalists, investigators and scholars who have developed substantial evidence showing that American intelligence agencies—headed by the CIA, FBI and State Department—knowingly and secretly had utilized Nazi war criminals residing in the United States. (These grave accusations found official confirmation in a limited but useful 1978 study by the General Accounting Office, thereby imparting additional impetus to the issue).

At the goading of the Holtzman-led forces, in 1977 a Special Litigation Unit (SLU) was set up inside the INS, was presumably provided a million dollar budget and was mandated by Congress to prosecute Nazi war criminals and collaborators living in the United States. This funding never materialized.

The launching of the SLU was attended by considerable publicity, and hopes ran high. Within 18 months, however, it became more and more evident that the SLU simply was not up to the task:

- Of the 12 denaturalization/deportation cases which had been started before the SLU took over, not a single new effort originated with SLU. (See Chart of Current Nazi War Crimes Cases.)

- Only two denaturalization cases have been successfully completed in more than two years: one was argued by a U.S. Attorney in District Court; the other, on appeal, by the U.S. Solicitor General.

- There was a total absence of leadership from the Carter Administration's INS officialdom.

- The "mare's nest of 'gross inefficiency'" as the Associated Press characterized the INS in 1977 quickly infected the SLU. "They have a sort of system of non-management," the then U.S. Attorney General, Griffin B. Bell conceded on March 14, 1979.

- Whenever the SLU did manage to get before a judge, the ineptness of the government lawyers often degenerated into a tragi-comedy of errors deriving from a lack of trial experience. In a "confidential" Congressional report it was noted that of the SLU's five lawyers, one—brought over from the State Department, notoriously the single-most derelict Agency in the whole history of the Nazi war criminal matter—had no trial experience; another only Legal Aid background and among the other three less than five years experience as trial lawyers!

Attempts to put the blame on SLU chief Martin Mendelsohn missed the point. Decently motivated and committed, he was in disarray. "a goldfish in a tank of bureaucratic barracuda," as one Washington wag sympathetically commented.

From the beginnings of the SLU, it was an open secret that Mendelsohn was obstructed by the CIA, FBI and the National Security Administration.

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From a book to be published by Prom-U Press

(NSA) in trying to get the documents he desperately needed to effectuate prosecution.

By early 1979, widespread disaffection with the INS and its SLU was palpable. Congresswoman Holtzman, by now Chairperson of the key Judiciary Subcommittee on Immigration, used her clout to transfer SLU to the Criminal Division of the Justice Department where the effort became the OSI (Office of Special Investigations).

After some confusion, actual funding of more than \$2 million was provided annually for an escalating budget that would increase the OSI force to 38 lawyers, investigators, historians and legal aides by early 1980.

Even at that, the Associate Attorney General, Michael J. Eagen (himself responsible for what one official called "all the delay and confusion" as reported by *The New York Times* on March 25, 1979) astounded supporters by repeating his insistence that "it (the larger OSI budget of \$2 million) was more money than could be used."

JWV National Commander, Nathan M. Goldberg, Esq., pointed out that accused Nazi war criminal, Archbishop Trifa (see chart) "reportedly has a million dollars to spend himself" and further declared that the special prosecution effort "ought to be put on notice that it has six months to produce some concrete action..." His remarks attracted national attention.

Then the Justice Department on May 6, 1979 announced—again with much media clamor—that Walter J. Rockler—58-year-old senior partner of the eminent Washington law firm, Arnold and Porter, a World War II combat hero and a prosecutor in the Nuremberg War Crimes Trials—had been named director and special counsel to the OSI.

A long-time persistent critic of the government's performance commented: "At last! An experienced trial lawyer. Real leadership. Now we

move out!"

To secure further assessment for the future of what one Washington politico has called "the hardest cases that face American prosecutors," I interviewed Mr. Rockler.

Blunt, supremely confident and rapier-quick in responding to virtually any question, Mr. Rockler, as might be expected, is comfortably aggressive in an obviously customary role of adversary.

His specialty at Arnold and Porter? "Federal tax law. Been doing it since 1949," he said.

Let's see, as a Nuremberg prosecutor, he had to have been a young, inexperienced lawyer... "I learned. Quickly," Mr. Rockler interposed, snapping off his words like a drill sergeant (indeed as a Marine Corps officer he fought in such battles as Saipan, Iwo Jima and others, winning a Bronze Star).

"We went after the banks and bankers who backed Hitler," he recalled with obvious relish. From 1947-1949, he had helped prepare for trial in the Office of Chief of Counsel for War Crimes. "Like the Reichsbank and Dressner Bank. The ones which converted the gold fill-

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ings, jewelry, eyeglass frames and so forth into hard cash and credit from the SS death camps," recalled the new director of the OSI.

How would he state the purpose of his new office? "Simple," he rejoined. "To locate, prepare for trial, to go to trial, and to denaturalize and to deport Nazi war criminals in our country. Our purpose is clear, the task difficult."

Had he set any goals for his OSI? "In the first six months, by the end of November, we'll review all current cases. About 175 of them. Decide which ones are triable. The ones we

can win. And go to court. And win."

Was he mindful of the demonstrated utilization of accused war criminals by some intelligence agencies? "I am. It's deplorable," he said.

Does he expect cooperation from such as the CIA, FBI and State Department? Yes he does. What if they prove uncooperative? "I would hope they help us. If they don't, we'll still go to court and take them with us... they will not stop us."

How much funding does he actually have for the job?

"We've got \$1.5 mill in our hands through the end of Fiscal Year 1979, October 1. Then positively \$2.3 mill for FY (Fiscal Year) 1980. We've got strong Congressional backing," he said. "There can be no more grouching about insufficient funds."

Did he feel that his staffing problems would be worked out? (OSI now has 12 lawyers; eight are new, four are from the former SLU. By October 1, 1980, the OSI staff is scheduled to include 50 employees, mostly lawyers).

"The ones who've come on have done so voluntarily, so I assume they're committed to what we're doing. Most are already in the government." He was quick to defend his staff.

"I notice some of these critics predicted that the Federenko appeal wouldn't work, but it sure as hell did!"

(Feodor Federenko, now 70, had been a guard at the death camp, Treblinka—see chart. At trial he beat the Government's attempt to denaturalize him; on appeal, the 5th Circuit Court on June 28, 1979, reversed and ordered the trial judge to strip the one-time SS guard of his American citizenship. Federenko's lawyer said on June 29th he will go to the Supreme Court. Even assuming an ultimate final-order for deportation, Federenko, under law, can elect to go to the country of his choice which will accept him. Federenko is wanted in Poland for war crimes).

Did Mr. Rockler consider the Appeals Court decision in Federenko of import? I quoted a well-known trial

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lawyer who had opined that the ruling may radically change the trial approach to these war criminal cases; that it may now be only necessary to prove fraud in the procurement of a visa to sustain argument for deportation or denaturalization; and that it may modify the need for eyewitness testimony regarding the commission of atrocities.

Mr. Rockler listened but declined comment other than to say: "No doubt, it's of consequence. How much so, we'll see."

I then read to him an attribution carried by the UPI wire on May 6, 1979: "There've been people who have suspected there are probably a fair number of war criminals—Nazis—hanging around the United States (said Mr. Rockler). It's probably worth looking into."

I pointed out that the Jewish Telegraphic Agency (JTA) had filed the same quote on the next day. Many Jewish community leaders as well as non-Jewish figures (including myself) had commented in the press that Mr. Rockler's remarks had shown "insensitivity," an "absence of resolve" and (in my case) a remark "approaching insolence." Would he care to comment?

There was a brief pause. He snapped, "I would not!"

When asked if he wished the attribution to stand, he said: "Look. I did say that but it's not what it sounds like. It was casual. Off the top of my head. Most of the accused Nazis in the country are not the primary figures of the Nuremberg war crimes trials. Instead, they're the triggerman, guards, at the bottom of any society's social scale."

"The Trifa and Artucovic cases (Ed. Note: see chart) are of consequence. They were instigators, promoters, leaders affecting the lives of thousands of people."

"What I said to UPI doesn't worry me. Anyone can draw any conclusions he wants. We're already at work here. I'm going to work everyone hard. Don't expect miracles. But I'll stand on what we do," he said emphatically.

There can be no question that the woefully belated, deeply-flawed government effort in the Nazi war criminals issue has indeed entered a new stage. With full Congressional backing, an adequate budget, an eager young staff headed by the experienced and tough leadership of Walter Rockler, there are grounds for well-tempered optimism.

The Federenko decision, coupled

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with the successful effort to abolish the West German statute of limitations on war crimes, seemingly closes off major avenues of escape for Nazi criminals and collaborators. A larger, more positive context is at hand.

Yet there are further considerations which give pause to veteran observers of this question which have never permitted easy conclusions.

Mr. Rockler says that he will work his staff hard; no doubt he will. He himself will also work hard. But his contract with the Justice Department calls for his services for only 140 working days over the next calendar year. No one can do this job at half-time, not even an obvious dynamo like Mr. Rockler.

No one with the slightest pretension of knowledgeableness can overstate the powerful, if not ultimately fatal, role an obstreperous American intelligence community may continue to play. Certain Third Agencies which have knowingly utilized Nazi war criminals have assured them guarantees of immunity as part of the deal. William C. Colby, a former director of the CIA, has said so. He told *The Evening Tribune* of San Diego, California (October 16, 1976) that his agency "has gone to great lengths to protect" aliens employed by the CIA. "Colby made it clear," reported the paper, "that the CIA has

brought in past enemies and possibly war criminals, and protects them from deportation if they were important to this country and faced punishment."

It must be appreciated that Colby admitted this in conjunction with a war criminal case which was dropped by the INS after secret CIA intervention.

At the very time of the reorganization under the OSI, *The New York Times* (March 22, 1979) reported that the powerful General Accounting Office accused the FBI and CIA of "blocking the access of Congressional investigators to (their) files *without the authority of law*." (Emphasis added).

Can the Rockler forces of the OSI possibly break through such formidable obstacles after the 33 years of massive indifference, cover-ups and sheer ineptitude of the Washington bureaucracy?

Will the White House ever declare its support of this effort? (No President has ever done so.) Congresswoman Holtzman and the Jewish War Veterans have called for such backing as indispensable to a final resolution of this matter.

Already a mood of impatience can be detected. *The Jewish Press*, the country's largest Anglo-Jewish newspaper, editorialized that "the time has come for the U.S. to move off dead center" after the Rockler appointment. War criminals cannot be prosecuted "if the U.S. (Government) is protecting them and not willing to deport them," the paper pointed out.

Outgoing NC Nathan M. Goldberg of the JWV told its 1979 convention: "We're still looking for action. Six months—both Mr. Rockler's and our time limit—we expect action, results. As always he will have our unstinting support. But we expect results. By results we mean successful trials and proper expulsions of all Nazi war criminals and collaborators from our shores."

Mr. Goldberg's position may well set the tone for the crucial period ahead.

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Nazi War Criminal Cases as of September 1, 1979

Deportation Cases

NAME	Place and Date Started	ALLEGATIONS	STATUS
Ja re Vilis Hazners	A10 305 336 INS hearing-New York City Immigration Judge Anthony DeGaeto Albany, N.Y. New York City Jan 23, 1977	As Latvian Army officer and Latvian Waffen SS officer, directed murders of Latvian Jews	Hearing completed May 17, 1979. Government's post-trial brief due June 18. Defendant's post-trial brief filed August 16.
Ja re Karlis Detlavs	A7 925 961 INS hearing-Baltimore Immigration Judge Emil Bobek Baltimore, Md. Oct. 1, 1978	Member Latvian fascist Daugavas Vanagi, joined SS Einsatzgruppen A units in genocidal operations against Latvian Jews	Prior proceedings was set aside because of Immigration Judge's death. New proceeding began November 13, 1978. Hearings were held January 9-11, 1979 and February 8 and 9, 1979. German government employed letters rogatory to ask Detlavs questions on August 16, 1979 regarding his participation with the Latvian security police. Detlavs refused to answer on the grounds it would be incriminating.
Ja re Andrija Artukovic	A7 095 961 U.S. District Court Central District of California Los Angeles, Ca. Oct. 24, 1978 (case renewed; originates 1949-1951)	Minister of Justice, Nazi-occupied Yugoslavia, signed decrees resulting in mass murders of est. 750,000 Jews, Gypsies, Serbs and Croats; 68,000 of whom were Jews	Subpoena for appearance of respondent served. Respondent's motion to enjoin with this deportation action was denied by U.S. District Court. On January 8, 1979, Artukovic was ordered to submit to depositions and to turn over documents requested by U.S. government.
Ja re Boleslavs Maikovskis	A8 194 566 INS hearing-New York City New York City Dec. 20, 1976	Latvian National Police Officer, directed mass shootings of Latvian Jews	Respondent asserted his Fifth Amendment right to refuse to answer government's questions at deportation hearing. Government obtained U.S. District Court order directing respondent to answer. Second Court of Appeals summarily affirmed District Court's order. Respondent's lawyer was elected a Judge and is unable to continue; new lawyer is Ivar Berzins.
Ja re Bronius Kaminskas	A6 659 471 INS hearing New York City Immigration Judge Anthony DeGaeto Hartford, Conn. Dec. 1976	Lithuanian policeman detached to punitive unit specializing in mass murders of Lithuanian Jews	Respondent has been unable to participate in these proceedings for health reasons. Proceeding is halted pending change in respondent's condition.
U.S. v. Meelis Paskevicius	CV 77-0167-RF U.S. District Court, Central District of California Los Angeles, Ca. Oct. 21, 1978	Lithuanian police district chief, directed forces with SS and Gestapo in sweeps, deportations and mass shootings of Jews	Pre-trial conference held July 3. On August 16, 1979, defendant agreed to settle case. He agreed to the revocation of his naturalization.
U.S. v. John Demjanjuk	CV 77-923 U.S. District Court of Ohio Cleveland, O. Eastern Division March 2, 1978	Atrocities as SS guard at Treblinka death camp	Discovery continuing as of April 6, 1979.

Denaturalization Cases

U.S. v. Valerian Trifa	5-70924 U.S. District Court for Eastern District Court of Michigan, Southern Division Detroit, Mich. May 14, 1975	Romanian Orthodox cleric, Archbishop Trifa as student leader of fascist Iron Guard incited 1941 Bucharest pogrom in which estimated 12,000 Jews were butchered	Government and defendant's discovery are completed. Hearing on motion for summary judgement to be heard September 12, 1979. Trial date to be set at this time.
U.S. v. Feodor Fedorenko	78-2879 Fifth Circuit Court of Appeals Miami, Fla. July 25, 1978	Brutalities as supervisory SS guard at Treblinka	Case decided after trial against the government; case has been appealed. Briefed; oral arguments heard in Fifth Circuit Court April 23, 1979. Reversed and remanded; Defendant ordered to surrender certificate of naturalization. Defendant filed motion for re-hearing to appellate court-denied August 13, 1979.
U.S. v. Frank Walos	78-1732 Court of Appeals Seventh Circuit Chicago, Ill. Dec. 1976	Gestapo agent participated in murders of Jews and others	Case decided after trial for the government. Case has been appealed. The government's brief has been submitted. Oral arguments were heard April 26, 1979.
U.S. v. Mykola Kowalczyk	77-119	Brothers charged as members of Ukrainian punitive unit which murdered Ukrainian and Polish Jews	Defendants refused to answer questions at deposition; court upholds defendants' right not to speak (Oct. 20, 1978). Discovery is continuing. Attorneys have gone to Ukraine to take witness statements.
U.S. v. Serge Kowalczyk	77-118 U.S. District Court Eastern District of Pennsylvania Philadelphia, Pa. Oct. 21, 1976		

Note: The above information was provided to Charles Allen, Jr. through the courtesy of Martin Mendelsohn, Esq., Deputy Director of the Office of Special Investigations, Criminal Division, U.S. Department of Justice